REMARKS

Claims 1-29 are pending. Claims 1-29 were rejected. Independent claims 1, 6, 11, 17, and 26 were rejected under under 35 U.S.C. 103(a) as being unpatentable over Jindal (6,092,178) in view of Herrman (6,522,651). The Examiner provided an argument for the unpatentability of claims 1 and 6. However, a portion of the argument is believed not to refer to the claims of the present application and instead if believed to refer to the claims of related case U.S. Application No. 09/833,388.

Jindal describes a trigger "for taking action in response to a client request received at a DNS server... client requests for an application (e.g., an application program or replicated service) are load-balanced among the multiple instances of the application operating on multiple servers." "In order to enhance load balancing of the application, various information is collected from the application instances and, possibly, the servers hosting those instances. The collected information concerns the status (e.g., operational or not operational) and/or operational characteristics (e.g., number of client requests, response time, throughput) of the instances and/or servers." "Based on the collected information, one or more preferred servers are identified based on one or more load balancing policies." (Summary)

However, as noted by the Examiner, Jindal fails to explicitly teach "providing a padded response datagram, wherein the padded response datagram is obtained by padding the response datagram with an arrangement of bits" as recited in independent claims 1, 6, 11, 17, and 27. The datagram is padded even when "network requirements allow transmission of the response datagram to the network node without padding the response datagram" as recited in claims 1, 11, 17, and 27. Jindal also fails to explicitly teach providing that "the network layer length is greater than the sum of the transport layer length and the network layer header length" as is explicitly recited in independent claim 6.

Herrmann notes that "two examples of transmission, or transport networks defined with packets size of constant length are considered: MPEG-2 Transport Stream (MPEG-2 TS) and the Asynchronous Transfer Mode (ATM). MPEG-2 TS packets are 188 bytes long, including a header of 4 bytes and a payload of 184 bytes, while ATM cells are 53 bytes long, including a header of 5 bytes and a payload of 48 bytes. As the packet size is constant with these networks,

Attorney Docket No.: CISCP202/3531   6

there is a problem to fit the last segment of an Access Unit, in the case of MPEG-4 data. It is here proposed to use a padding mechanism in order to build the last part of the last segment to be transmitted over the network." (Detailed Description Paragraph 4). ATM cells require a fixed "packet size." Consequently, a padding mechanism is used "in order to build the last part of the last segment to be transmitted over the network" as required by ATM.

However, Herrmann does not teach or suggest providing a padded response datagram when "network requirements allow transmission of the response datagram to the network node without padding the response datagram" as variably recited in claims 1, 11, 17, and 27. The padding described in Herrmann is required as ATM cells are of "fixed packet size."

Furthermore, Herrmann does not teach or suggest having a network layer length "greater than the sum of the transport layer length and the network layer header length." The material cited by the Examiner only describes calculating a network packet size as the network packet header size added to the network payload size. Herrmann makes no mention of transport layer lengths. However, the techniques of the present invention recite a network layer length "greater than the sum of the transport layer length and the network layer header length."
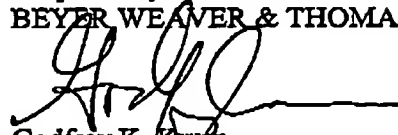
Dependent claim 14 also recites "wherein reception of the padded response datagram by the network node provides bandwidth availability information to the network node." Neither Jindal nor Herrmann are believed to teach or suggest this recitation. The techniques of the present invention recognize that receiving a padded datagram in itself can provide valuable information. For example, "limited network bandwidth may prevent router 112 from transmitting a padded reply message to a local domain name server 103 even though a non-padded message may have been successfully transmitted. Other content servers 117, 121, and 119 may or may not be padding corresponding reply messages." (page 14, lines 16-19).

In light of the above remarks relating to independent claims 1, 9, and 19 and to dependent claim 22, the remaining dependent claims 2-8, 10-18, and 20-21 are believed allowable for at least the reasons noted above.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a

Attorney Docket No.: CISCP202/3531   7

telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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Attorney Docket No.: CISCP202/3531   8